

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

UNITED STATES OF AMERICA,)	
Complainant,)	8 U.S.C. § 1324a Proceeding
)	
v.)	OCAHO Case No. 98A00025
)	
B N A FASHION CORP.,)	Judge Robert L. Barton, Jr.
Respondent.)	
)	

**ORDER DIRECTING PARTIES TO APPEAR FOR
A TELEPHONE PREHEARING CONFERENCE**
(February 9, 1998)

In the First Prehearing Order (FPO) issued on January 26, 1998, I ordered the parties to file a pleading proposing alternate dates for a telephone prehearing conference. If they could not agree on a joint pleading, they were to submit separate proposals.

In response to the FPO, I have received a motion from Complainant's counsel for a telephonic conference and discussing the attempts she made to consult with Respondent's counsel Mr. Aab concerning proposed dates. The correspondence and proposed pleading submitted to Complainant by Respondent proposes three possible dates in April 1998. By contrast, Complainant proposes nine dates, eight of which are in February and one in early March. One of the dates proposed by Complainant is February 18, following a prehearing conference in a different case before me in which the same counsel are appearing.

Respondent has not explained in his February 3, 1998, letter to Complainant's counsel, or in his proposed pleading accompanying the letter, why he is not available to appear for a telephone conference prior to April 2. The Court is not willing to postpone a conference for almost two months. This case will be processed expeditiously. Since a conference is scheduled with these same attorneys at 9:30 a.m. on February 18 in United States v. Spring & Soon et al., OCAHO Case No. 97A0116, the prehearing conference in this case will commence immediately upon the conclusion of the conference in Spring & Soon. I would anticipate that the conference in BNA will be shorter than that in Spring & Soon. However, the parties should be available from 9:30 a.m. to noon on February 18 for these two conferences. The conferences will be conducted pursuant to the Administrative Procedure Act (APA), 5 U.S.C. § 556(c), and the OCAHO Rules of Practice and Procedure, 28 C.F.R. § 68.13. A court reporter will be present to record the conference.

During the conference the following topics will be considered:

- (1) the claims in the Complaint and the Respondent's Answer to the Complaint;
- (2) the necessity or desirability of amendments to the pleadings;
- (3) the possibility of obtaining stipulations or admissions of fact;
- (4) a procedural schedule for the completion of discovery, filing of witness and exhibit lists and the exchange of exhibits, the filing of stipulations, the filing of motions, the submission of the joint proposed prehearing order, and the date by which the case will be ready for hearing;
- (5) the appropriateness and timing of summary adjudication pursuant to 28 C.F.R. § 68.38;
- (6) the identification of witnesses and documents, the need and schedule for filing and exchanging prehearing briefs and the date or dates for any further conferences and for hearing;
- (7) negotiation, compromise, or settlement of issues;
- (8) the disposition of any pending motions; and
- (9) such other matters as may facilitate the just, speedy, and inexpensive disposition of the action.

See 28 C.F.R. § 68.13(a) (1997); Fed. R. Civ. P. 16(c).

If a party or party's counsel fails to obey this order, fails to attend the conference, is substantially unprepared to participate in the conference, or fails to participate in good faith, upon motion by the opposing party or on the Judge's own initiative, sanctions may be imposed on the party and/or counsel, including possible dismissal of the complaint or request for hearing or the exclusion of the party's representative, as appropriate. See 28 C.F.R. §§ 68.1; 68.23(c); 68.28; 68.37 (1997). Therefore, unless the telephone conference is postponed, counsel for both parties are expected to be present in their respective offices at 9:30 a.m. EST on February 18, 1998, and to be fully prepared for the conference in this case immediately upon conclusion of the prehearing conference in United States v. Spring & Soon et al.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of February, 1998, I have served the foregoing Order Directing Parties to Appear for a Telephone Prehearing Conference on the following persons at the addresses shown, by first class mail, unless otherwise noted:

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